

## BINDING INITIATIVE PETITION

We, the undersigned registered voters of Cambridge, Massachusetts, hereby request the Cambridge City Council to approve the following:

### ORDINANCE REGULATING RESIDENTIAL RENTS AND EVICTIONS

To be submitted to the State Legislature as a Home Rule Petition.

#### PREAMBLE

- To address the severe and worsening shortage of affordable housing in Cambridge, this Act:
- Establishes and adjusts maximum rents, allowing owners a fair profit and operating income;
  - Prohibits evictions without just cause;
  - Preserves existing rental housing;
  - Covers buildings where federal or state rent protections expire;
  - Exempts owner-occupied two and three unit buildings;
  - Allows exemptions for owners who accept means-tested local residents as tenants;
  - Allows a small surcharge to higher-income tenants in controlled apartments;
  - Doesn't prevent owners from occupying their own condominium dwellings.

(continued on attachments)

2003 SEP - 5 P 3:

CITY OF CAMBRIDGE  
ELECTION COMMISSION

**AN ACT REGULATING RESIDENTIAL RENTS AND EVICTIONS  
IN THE CITY OF CAMBRIDGE**

*(continued from preamble)*

**1. DECLARATION OF EMERGENCY**

The general court finds and declares that a serious public emergency exists with respect to the housing and the stability of the neighborhoods of a substantial number of the citizens in the City of Cambridge, which has resulted in abnormally high rents, and a substantial and increasing shortage of decent rental housing accommodations especially for families and households of low and moderate income and for elderly people on fixed income;

that this situation and the further pressures resulting there from have produced serious threats to the public health, safety and general welfare of the citizens of Cambridge and in other adjacent communities; that such emergency should be met by the Commonwealth immediately and with due regard for the rights and responsibilities of the City of Cambridge;

that the deferred operation of this act would tend to defeat its purpose which is, in part, to alleviate the severe shortage of affordable rental housing in the City of Cambridge, which shortage has caused a serious emergency detrimental to the public peace, health, safety and convenience, therefore this act is hereby declared to be an emergency law, necessary for the immediate preservation of the public peace, health, safety and convenience.

This act shall apply notwithstanding any general or special law to the contrary, including, without limitation, the provisions of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four and chapters forty O and P of the General Laws.

**2. EFFECTIVE DATE, REVOCATION, AND REACCEPTANCE**

This act shall take effect in the City of Cambridge upon its passage into law by the general court and such passage shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Once accepted, it may be repealed or revoked, or otherwise nullified by majority vote of the Cambridge City Council or on a ballot measure submitted to registered voters of the City of Cambridge in accordance with sections 37 through 40 of chapter forty-three of the General Laws.

Such repeal shall not interfere with prosecution with respect to any right, liability or offense arising under the provisions of this act. If repealed or revoked, or otherwise nullified, it may be reaccepted either (1) by a majority vote of the members of the Cambridge City Council, or (2) by initiative petition and vote pursuant to the procedures of sections 37 through 40 of chapter forty-three of the General Laws.

Prior to a Cambridge City Council vote to repeal the law, the Cambridge Community Development Department must determine that the housing emergency had ceased, based on the following considerations:- (a) the vacancy rate for private rental housing; (b) vacancies in low-rent housing; (c) the percentage of renters paying 30% or more of their income for housing or some other measure of financial strain; (d) the extent of overcrowding; (e) the extent to which tenants are living in inadequate conditions; (f) the length of waiting lists for public and subsidized housing; and (g) the homeless person and family census.

### 3. DEFINITIONS.

The following words or phrases as used in this act shall have the following meanings:

(a) **"Rental units,"** any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, including houses, apartments, rooming or Boarding house units, and other properties used for living or dwelling purposes, together with all services connected with use or occupancy of such property.

(b) **"Controlled rental units,"** all rental units except:

(1) rental units in hotels, motels, inns, tourist homes and rooming or Boarding houses which are rented primarily to transient guests for a period of less than fourteen consecutive days;

(2) rental units the construction of which was completed on or after February one, nineteen hundred and ninety-nine, or which are housing units created by conversion from a non-housing use on or after said date;

(3) rental units which, and so long as, a governmental unit, agency, or authority either:

(i) owns or operates; or

(ii) regulates the rents, other than units regulated:

(a) under the provisions of this act, or

(b) under the provisions of any other general or special law authorizing municipal control of rental levels for all or certain rental units within a municipality; or

(iii) finances or subsidizes, if the imposition of rent control would result in the cancellation or withdrawal, by law, of such financing or subsidy; provided that rental units whose sole form of regulation is pursuant to a tenant based housing subsidy program including the Section 8, MRVP and AHVP programs shall not be exempt under 3(b)(3) (this subsection);

(4) rental units in cooperatives;

(5) rental units in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes; or nursing home or rest home or charitable home for the aged, not organized or operated for profit;

(6) the rental unit or units in two or three family houses, otherwise occupied by all beneficial owners as their permanent residence; provided, however, that two or more adjoining buildings or structures, or condominium units in two or three family houses, if under common legal or beneficial ownership shall constitute a single building or structure for this purpose;

(7) the unit that is a beneficial owner's principal residence, while vacated and rented by said owner for a period not to exceed two years, if said owner has not taken up residence elsewhere with the intention of not returning and has resided in the principal residence for at least two years immediately before vacating it. Where such units are being temporarily rented on the effective date of the Act, they are similarly excepted under the terms described above.



(c) **"Rent,"** the consideration including any bonus, benefits, services rendered or gratuity demanded or received in connection with the use or occupancy of rental units or the transfer of a lease of such rental units.

(d) **"Services,"** repairs, replacement, maintenance, painting, providing light, heat, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishings, parking facilities, and any other benefit, privilege or facility connected with the use or occupancy of any rental unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

(e) **"Expiring Use Housing,"** any housing unit and any benefits, privileges or facilities connected with its use and occupancy, which has been owned, operated, regulated, financed or subsidized by any government agency or authority, as defined in b) 3 above, but has ceased to be so owned, operated, regulated, financed or subsidized at any time since January 1, 1995.

#### **4. TRANSITION.**

Upon its establishment, the Board shall assume possession of all records, documents and other materials which were in possession of the Board established and operated under Ch.36 of the acts of 1976 or any special or General Laws regulating rents and evictions enacted subsequent to said Ch.36 of 1976.

#### **5. RENT BOARD.**

(a) This act shall be administered by a Rent Board, hereinafter called the Board, to consist of five Cambridge residents or property owners appointed by, and serving at the pleasure of, the city manager in the capacity of chief executive officer of the city. At least two members of the Board shall be Cambridge tenants. At least two members of the Board shall be residents who are Cambridge property owners.

(b) Members of the Board shall receive no compensation for their services, but shall be reimbursed by the city for necessary expenses incurred in the performance of their duties.

(c) The Board shall be responsible for carrying out the provisions of this act, and shall hire, with the approval of the city manager in the capacity of chief executive officer of the city, such personnel, not subject to the provisions of section nine A (f) chapter thirty of the General Laws or chapter thirty-one of the General Laws, as are needed; shall promulgate such policies, rules and regulations as will further the purposes and provisions of this act; and shall recommend to the City, for adoption, such ordinances as may be necessary to carry out the purposes of this act.

(d) The Board may make such studies and investigations, conduct such hearings, and obtain such information as is deemed necessary in promulgating any regulation, rule or order under this act, or in administering and enforcing this act and regulations and orders promulgated hereunder. For the foregoing purposes, a person may be summoned to attend and testify and to produce books and papers in like manner as he may be summoned to attend as a witness before a court. Any person who rents or offers for rent or acts as broker or agent for the rental of any controlled rental unit may be required to furnish under oath any information required by the Board and to produce records and other documents and make reports. Such persons shall have the right to be represented by counsel, and a transcript shall be taken of all testimony and such person shall have the right to examine said transcript at reasonable times and places. Section ten of chapter two hundred and thirty-three of the General Laws shall apply, and for the purposes of this act a justice of the



District Court shall have the same powers as a justice of the Supreme Judicial or Superior Court to implement the provisions of said section.

(e) The Board shall have the power to issue orders and promulgate regulations to effectuate the purposes of this act.

(f) The provisions relating to adjudicatory proceedings in chapter thirty A of the General Laws, except for section nine and the provisions of paragraph one (1) of the third paragraph of section fourteen which relates to the court in which judicial review may be sought, shall be applicable to the adjudicatory hearings held by the Board.

(g) The Board shall be appointed within thirty (30) days from passage of this Act by the General Court.

## **6. MAXIMUM RENT.**

(a) The maximum rent of any controlled rental units shall be the rent lawfully charged the occupant of such unit on September 1, 2002. If the rental unit was unoccupied at that time but was occupied at any time prior to that date, the maximum rent shall be the rent lawfully charged there for the month closest to one month prior to the date on which the unit became controlled. Upon the reacceptance of this act the maximum rent of a controlled unit shall be the rent lawfully charged the occupant of such unit for the month six months prior to the reacceptance of this act. If the rental unit was unoccupied at that time but was occupied at any time prior to the reacceptance of this act, the maximum rent shall be the rent lawfully charged there for the month closest to six months prior to the reacceptance of this act. If the maximum rent is not otherwise established, it shall be established by the Board.

(b) Maximum rents of all controlled rental units shall be adjusted further to establish base rent levels consistent with principle of fair rents based on costs of operating each controlled rental unit, while assuring the owner a fair net operating income. As a rule, this would be the rent charged no later than February 1, 1999, when the city council last declared a housing emergency. Any maximum rent may be subsequently adjusted under the provisions of Section seven.

(c) The Board shall require registration of all controlled rental units in Cambridge on forms authorized or to be provided by said Board.

## **7. MAXIMUM RENT ADJUSTMENT.**

(a) The Board shall make such individual or general adjustments, either upward or downward, of the maximum rent established by section six for any controlled rental unit or any class of controlled rental units as may be necessary to assure that rents for controlled rental units are established at levels which yield to landlords a fair net operating income for such units. For the purposes of this section, the word "class" shall include all the controlled rental units within Cambridge or any categories of such rental units based on size, age, construction, rent, geographic area or other common characteristics, providing the Board has by regulation defined any such categories.

(b) The following, among other relevant factors, which the Board by regulation may define, shall be considered in determining whether a controlled rental unit yields a fair net operating income:

- (1) increases or decreases in property taxes;
- (2) unavoidable increases or any decreases in operating and maintenance expenses;
- (3) capital improvement of the housing unit as distinguished from ordinary repair, replacement and maintenance;
- (4) increases or decreases in living space, services, furniture, furnishings or equipment; (5) substantial deterioration of the housing units other than as a result of ordinary wear and tear; and
- (6) failure to perform ordinary repair, replacement and maintenance.

(c) For the purpose of adjusting rents under the provisions of this section, the Board may promulgate a schedule of standard rental increases or decreases for improvement or deterioration in specific services and facilities.

(d) The Board may refuse to grant a rent increase under this section, if it determines that the affected rental unit does not comply with the state sanitary code and any applicable municipal codes, ordinances or bylaws, and if it determines that such lack of compliance is due to the willful failure of the landlord to provide normal and adequate repair and maintenance. The Board may refuse to grant a rent decrease under this section, if it determines that the tenant is at least sixty days in arrears in payment of rent, unless such arrearage is due to a withholding of rent under the provisions of section 8A of chapter 239, or section 1 27L of chapter 111.

## **8. RENT ADJUSTMENT HEARINGS.**

(a) The Board shall consider an adjustment of rent for an individual controlled rental unit upon receipt of a petition for adjustment filed by the landlord or tenant of such unit or upon its own initiative. The Board shall notify the landlord, if the petition was filed by the tenant, or the tenant, if the petition was filed by the landlord, of the receipt of such petition and of the right of either party to request a hearing. If a hearing is requested by either party, or if the action is taken on the initiative of the Board, the hearing shall be conducted before at least one member of the Board or the Board's designee prior to the decision by the Board to grant or refuse a rent adjustment. Notice of the time and place of the hearing shall be furnished to the landlord and tenant. The Board may consolidate petitions relating to controlled rental units in the same building and all such petitions may be considered in a single hearing.

(b) On its own initiative, the Board may make a general adjustment, by percentage, of the rental levels for any class of controlled rental units within Cambridge. Prior to making such adjustment, a public hearing shall be held before at least a majority of the Board. Notice that an adjustment is under consideration, a description of the class of rental units which would be affected by the adjustment, and the time and place of such public hearing shall be published three times in at least one newspaper having a general circulation within the City of Cambridge, and posted on available cable TV and Internet outlets at least for the two weeks immediately prior to such hearing.

(c) Notwithstanding any other provision of this section, the Board may, without holding a hearing, refuse to adjust a rent level for an individual rental unit if the rent has already been raised as a result of a hearing which has been held with regard to the rental level of such unit within the past twelve months.

## 9. EVICTIONS

(a) No person shall bring any action to recover possession of a controlled unit unless:

(1) the tenant has failed to pay the rent to which the landlord is entitled and has failed to cure such arrearage pursuant to state law;

(2) the tenant has violated an written obligation or covenant of tenancy not inconsistent with chapter 93A of the General Laws of this act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice and has failed to cure such violation after having received written notice thereof from the landlord;

(3) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to, the controlled rental unit, or is creating a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;

(4) the tenant is convicted of using or permitting a controlled rental unit to be used for any illegal purpose;

(5) the tenant, who had a written lease or rental agreement which terminated on or after this act has taken effect, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not inconsistent with or in violation of any provision of chapter 93A of the General Laws or this act or any other law designed to regulate residential tenancies, or the regulations issued pursuant thereto;

(6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth, or any political subdivision thereof or for the purpose of inspection as permitted or required by the lease or by laws, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee after making good faith efforts to arrange times for access mutually agreeable to the landlord and tenant. Such efforts must include actual contact with the tenant including by telephone and/or letter;

(7) the person holding at the end of the lease term is a subtenant not approved by the landlord either explicitly or implicitly ;

(8) the landlord seeks to recover possession in good faith for use and occupancy of himself, or his children, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law; except that

(i) no action shall be brought under this clause to recover possession of a controlled condominium unit from a tenant unless initial terms of the tenancy included a lease or agreement with the owner-occupant of the condominium unit, which agreement obliged the tenant to quit to allow that owner or owner's immediate family to resume occupancy;



(9) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of chapter 93A of the General Laws or of this act, or the regulations issued pursuant thereto. Recovery of possession in order to convert an apartment unit to a condominium unit shall not be a valid reason to recover possession of a controlled rental unit.

(b) A landlord seeking to recover possession of a controlled rental unit shall apply to the Board for a certificate of eviction. Upon receipt of such an application, the Board shall send a copy of the application to the tenant of the controlled rental unit together with a notification of all rights and procedures available under this section. If the Board finds that the facts attested to in the landlord's petition are valid and that such facts meet the standards set forth in paragraph (a), the certificate of eviction shall be issued.

(c) A landlord who seeks to recover possession of a controlled rental unit without obtaining such certificate of eviction shall be deemed to have violated this act, and the Board may initiate a criminal prosecution for such violation. A tenant may raise as a defense in any action to recover possession of a controlled unit a landlord failure to obtain a certificate of eviction prior to initiating said action.

(d) Notwithstanding the provisions of this section, the United States, the Commonwealth, or any agency or political subdivision thereof, may maintain an action or proceeding to recover possession of any rental unit operated by it if such action or proceeding is authorized by the statute or regulation under which such units are administered.

(e) The provisions of this section shall be construed as additional restrictions on the right to recover possession of a controlled rental unit. No provision of this section shall prohibit any tenant from gaining the benefit of state, federal, municipal laws which regulate residential tenancies and which may differ from the provisions of this Act.

#### **10. JUDICIAL REVIEW.**

(a) Any person who is aggrieved by any order of the Board may, within thirty days of the Board's issuance of such order, file a complaint for judicial review against the Board in the Superior Court division for Middlesex County. Judicial review of adjudicatory decisions shall be conducted in accordance with section seven of chapter thirty A of the General Laws.

(b) Appeal from any judgment rendered by the Superior Court shall be to the Appeals Court.

#### **11. CIVIL REMEDIES.**

(a) Any person who demands, accepts, receives or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of this act or any regulation or order hereunder promulgated, shall be liable, as hereinafter provided, to the person from whom such payment is demanded, accepted, received or retained, or to the city, for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of one hundred dollars, or three times the amount by which the payment demanded, accepted, received or retained is in excess of the maximum lawful rent, whichever is the greater; provided that if the defendant proves that the violation was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation, the amount of such liquidated damages shall be the amount of the overcharge or overcharges.

(b) Action to recover liquidated damages under the provisions of this section shall not be brought later than four years after the date of violation. A single action for damages under the provisions of this section may include all violations of the provisions of this section committed by the same defendant against the same person.

(c) The Board or any person may elect to enforce the provisions of this act or any rule or regulation promulgated hereunder either in a civil action for damages or declaratory or injunctive relief or under the provisions of section twelve.

## **12. CRIMINAL PENALTIES.**

(a) It shall be unlawful for any person to demand, accept, receive or retain any rent for the use and occupancy of any controlled rental unit in excess of the maximum rent prescribed therefor under the provisions of this act or any order or regulation hereunder promulgated, or otherwise to fail to obey any order or regulation hereunder promulgated, or otherwise to do or omit to do any action in violation of the provisions of this act or any order or regulation hereunder promulgated.

(b) It shall be unlawful for any person to demand, accept, receive or retain any payment which exceeds the maximum lawful rent for one month as a finder's fee or service charge for the opportunity to examine or lease any controlled rental unit, and no finder's fee or service charge shall be lawful unless the person from whom the payment is demanded, accepted, received or retained actually rents or leases the controlled rental unit with regard to which payment of said fee or said charge has been demanded, accepted, received or retained.

(c) Whoever willfully violates any provision of this act or any rule or regulation hereunder promulgated, or whoever knowingly makes any false statement in any testimony before the Board or whoever knowingly supplies the Board with any false information shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days or both; provided, however that in the case of a second or subsequent offense, such person shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than one year, or both.

## **13. REMOVAL PERMIT.**

(a) No owner or other person shall remove from the rental housing market any controlled rental unit, unless the Board after a hearing grants a permit. The Board may issue orders and promulgate regulations to effect the purposes of this section, and to prescribe the procedure for applications, notice, hearings, and the granting and withdrawal of permits.

(b) In deciding whether to grant a permit under this section, the Board shall consider:

(i) the benefits to the persons sought to be protected by this act;

(ii) the condition of the housing involved and the prospects that capital needed to maintain it as rental housing will be available;

(iii) the present and likely future rent structure in the building, including likely increases which would result from major improvement, renovation or rehabilitation;

(iv) the hardships imposed on the tenants residing in the unit proposed to be removed, including any mitigating provisions made by the applicant and the availability of comparable housing in the City of Cambridge; and

(v) any aggravation of the shortage of rental housing accommodations, which may result from the removal,

Where an owner of a condominium unit seeks to remove the unit from the rental market for the purpose of indefinitely residing in such unit a removal permit shall be granted, so long as this action does not require the eviction of a tenant unless the terms of Section 9(a) & apply. Any condominium unit once removed for owner-occupancy shall be exempt from the provisions of this Act as described in Section 3(7).

#### **14. EXPIRING USE PROTECTIONS.**

Any housing unit and any benefits, privileges or facilities connected with its use and occupancy, which has been owned, operated, regulated, financed or subsidized by any government agency or authority, as defined in b) 3 above, but has ceased to be so owned, operated, regulated, financed or subsidized at any time since January 1, 1995, shall be immediately subject to this act.

#### **15. EXEMPTIONS FOR ADVANCING THE ACT'S PURPOSE.**

(a) The Board, though the city manager as chief executive of the City, shall cause to be established and maintained, lists of prospective, eligible low and moderate income applicants for controlled rental units, to further the aims and purposes of this act.

(b) The City may contract with the Cambridge Housing Authority (CHA) to establish and administer such (a) lists.

(c) The Board may temporarily exempt rental units from the provisions of Sections 6,7, and 8 of this Act, to a landlord who accepts households from the Section 15(a) lists of eligible residents as tenants in Cambridge rental unit(s) which are and shall remain subject to the terms of this Act; provided, that exempted rental units must be vacant at the time such exemption is granted; and further provided, that the total number of units exempted for each landlord shall not exceed one for every two 15(a) households accepted in buildings of ten units or less and one for every three households accepted in buildings of more than ten units.

(d) For the purposes of this section, a rental unit which is not occupied as the tenant's principal residence shall be considered vacant, and may thus be temporarily exempted under the provisions of subsection (c).

(e) Removal of a tenant in order to create a vacancy pursuant to the provisions of this section shall not be just cause for eviction under 9 of this act.



## **16. ADMINISTRATIVE SURCHARGE.**

(a) The City Council may, by majority vote, and with the agreement of the city manager as chief executive of the city, establish an administrative surcharge on controlled rental units for the purpose of defraying costs of administering this act, and furthering its aims and purposes.

(b) The Board may be empowered to establish the means to effect this administrative surcharge, including through the further adjustment of maximum rent levels.

(c) The amount of such surcharge shall be determined by the city manager, not to exceed two per cent of a rental unit's maximum legal rent.

(d) Any tenant household may apply for exemption from such surcharge, and receive an exemption if household income is below 80% of median for the Boston SMSA. An application for exemption shall be made to the city, and any and all information so provided by the tenant shall be treated as confidential, so none of it shall be used or made available for any other purpose.

## **17. HARDSHIP EXEMPTION.**

(a) The Board may grant temporary exemption from the provisions of 6, 7 and 8 of this act to an owner of six or fewer rental units, if it determines that said owner would otherwise experience extreme financial hardship because of mortgage or financial obligations related to the property incurred before the effective date of this act.

(b) A temporary exemption under this section may be granted for a period not to exceed two years, renewable upon petition.

(c) The Board shall inform all affected tenants of a landlord's petition for exemption under this section. Upon request of one or more affected tenant, the Board or its designee shall hold an administrative hearing to determine the facts of the petition.

## **18. RIGHT OF FIRST REFUSAL**

(a) Tenants right to purchase. Whenever an owner intends to sell a controlled rental unit either as a single condominium or a building (with controlled units) for the purpose of condominium conversion, the tenant(s), including any tenant association or cooperative, shall be given the right of first refusal to purchase the unit or building. The tenant's(s') initial right to purchase shall expire at the end of said ninety days, or thirty days after receiving a copy of a proposed purchase and sale agreement properly executed by the owner, whichever is later. The owner shall not, for at least six months after such offer of sale is made to the tenant(s), sell or advertise for sale any unit or building for a price less than that offered to the tenant(s).

(b) Non-profits right to purchase and notice to the Community Development Department. The owner of the controlled rental unit(s) shall provide a copy of all notices required by this section to the Community Development Department at the time said notices are delivered to the tenant(s) of the housing

accommodation. In the event that the tenant(s) do(es) not exercise the right to purchase the accommodation, the Department, the Cambridge Housing Authority ("Authority") and any not-for-profit designee of the Department or the Authority, shall have an additional thirty days to purchase the accommodation on the same terms and conditions offered to the tenant(s) pursuant to this Section.

#### **19. SEVERABILITY.**

If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.